

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

FILED

2010 DEC -2 AM 10: 19

CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY \_\_\_\_\_

K  
DEPUTY

CROSSROADS SYSTEMS, INC.,  
Plaintiff,

-vs-

Case No. A-10-CA-652-SS

3PAR, INC., et al.,  
Defendants.

O R D E R

BE IT REMEMBERED on this day the Court called the above-styled cause for a status conference and the parties appeared through counsel. The Court confirms its oral announcements with this written order as follows:

IT IS ORDERED that the Court APPOINTS Mr. Karl Bayer as Special Master in the above-styled cause pursuant to Fed. R. Civ. P. 53. A copy of Mr. Bayer's curriculum vitae is attached to this Order. An investigation by the Court reveals Mr. Bayer has no conflicts of interest with the parties to the case or their counsel. The Court therefore finds Mr. Bayer is qualified to serve as a Special Master in this case. Interim compensation at the rate of \$400.00 (Four Hundred and no/100 Dollars) per hour shall be borne proportionately as agreed by the parties and is to be paid on a monthly basis. See Fed. R. Civ. P. 53(a). The total amount of compensation shall be taxed as costs at the conclusion of this case.

SIGNED this the 1st day of December 2010.

  
SAM SPARKS

UNITED STATES DISTRICT JUDGE

**KARL BAYER**  
Dispute Resolution Specialist

8911 North Capital of Texas Highway Suite 2120 Austin, Texas 78759 (512) 345-8537 karl@karlbayer.com

## EDUCATION

- 1998                   **The University of Texas at Austin**, classes in microbiology and digital systems design

1976                   **University of Texas School of Law**, J.D.

1973                   **Massachusetts Institute of Technology**, M.S. (Biomedical Engineering)

1971                   **Rice University**, B.A. *cum laude*       (Electrical Engineering)

## **EXPERIENCE**

- |              |  |
|--------------|--|
| 1991-present | <b>Karl Bayer, Dispute Resolution Specialist</b><br>Solo litigation and arbitration practice in personal injury, business and intellectual property disputes and private mediator and arbitrator in all areas of conflict, Austin, Texas |
|              | <b>Special Patent Master and Discovery Master</b> in a number of cases in Texas Federal Courts   |
| 1997-1999    | <b>Resolution Architects</b><br>Partner, Conflict resolution consulting on public policy, health care, technology and environmental issues, Austin, Texas  |
| 1989-1991    | <b>Gibbins, Winckler &amp; Bayer</b> - Partner, Austin, Texas  |
| 1988-1989    | <b>Bickerstaff, Heath &amp; Smiley</b> - Special Counsel, Austin, Texas  |
| 1988         | <b>Texas Supreme Court Candidate</b> - Democratic Nominee for Place 5  |
| 1982-1988    | <b>Pluymen &amp; Bayer Attorneys</b> - Partner , Austin, Texas   |
| 1981-1982    | <b>Brown, Maroney, Rose, Barber &amp; Dye</b> - Associate Attorney, Environmental, Utility and Technology Section, Austin, Texas   |
| 1980-1981    | <b>U. S. Environmental Protection Agency</b> - Staff Attorney, Office of General Counsel, Pesticides and Toxic Substances, Washington, D.C.  |
| 1979-1980    | <b>U. S. House of Representatives</b> - Legislative Director for Representative Kent Hance   |
| 1977-1979    | <b>Grambling, Mounce, Sims, Galatzan &amp; Harris</b> - Associate Attorney, Business Litigation<br>El Paso, Texas  |
| 1975-1976    | <b>Omnibus</b> - Founding Partner, Automated school bus routing, Austin, Texas and Washington, D.C.  |
| 1974-1977    | <b>Texas Senate</b> - Legislative and Administrative Assistant to Senator Don Adams, Austin, Texas   |
| 1973         | <b>Concord Research Corporation</b> - Staff Engineer, Design of radar tracking systems and computer systems for school desegregation, Boston, Massachusetts  |

**SPECIAL MASTER EXPERIENCE**

2006-present    **Pretrial Discovery Master:** *Air Measurement Technologies, Inc., et al. v. Gary W. Hamilton, et al.*; Case No. SA-03-CA-0541-RF; In the United States District Court for the Western District of Texas, San Antonio Division

**Pretrial Discovery Master:** *Janaki Ramadoss, et al. v. Caremark, Inc.*; Case No. SA-99-CA-0914-RF; In the United States District Court for the Western District of Texas, San Antonio Division

**Markman Master:** *Spectranetics Corp. v. Medtronic, Inc.*; Case No. A-07-CA-548-SS; In the United States District Court for the Western District of Texas, Austin Division

**Markman Master:** *Levitation Arts, Inc. v. Fascinations Toys and Gifts, Inc.*; Case No. A-07-CA-990-SS; In the United States District Court for the Western District of Texas, Austin Division

**Markman Master:** *The Western Union Co. v. Moneygram Int'l, Inc.*; Case No. A-07-CA-00372-SS; In the United States District Court for the Western District of Texas, Austin Division

Numerous cases mediated and arbitrated involving claims construction, technical issues and patent issues. References available upon request and upon approval by counsel in those cases.

2005-2006    **Markman Master:** *Silicon Laboratories, Inc. v. Ali NikNejad and Axiom Microdevices, Inc.*, Case No. A-04-CA-155-SS; In the United States District Court for the Western District of Texas, Austin Division

**Markman Master:** *Board of Regents of the University of Texas System v. Benq America Corp., et al.*; Case No. A-05-CA-181-SS; In the United States District Court for the Western District of Texas, Austin Division

**Markman Master:** *Pavilion Technologies, Inc. v. Emerson Electric Co., et al.*; Case No. A-05-CA-898-SS; In the United States District Court for the Western District of Texas, Austin Division

2004-2005    **Markman Master:** *Crossroads Systems Corp. v. Dot Hill Systems Corp.*; Case No. A-03 CV-754 SS; In the United States District Court for the Western District of Texas, Austin Division

2002    **Markman Master:** *VIA Technologies v. Intel Corporation*; Case No. A-01-CA-602-SS; In the United States District Court for the Western District of Texas, Austin Division

**Markman Master:** *Pavilion Technologies, Inc. v. Computer Associates International, Inc.*; Case No. A-01-CA-507 SS; In the United States District Court for the Western District of Texas, Austin Division

2000    **Pretrial Discovery Master:** *Western Aircraft, Inc. v. Grupo Nacional Provincial, S.A., et al.*; Case No. DR 97-CV-090-WWJ; In the United States District Court for the Western District of Texas, Del Rio Division

1997    **Markman Master:** *Crystal Semiconductor Corporation v. Opti, Inc. and Tritech Microelectronics International PTE Ltd.*; Case No. A-97CA-026-SS; In the United States District Court, Western District of Texas, Austin Division. Reported at 246 F.3d 1336.

**PROFESSIONAL ACTIVITIES**

2000-present    Electronic Filing Committee, US District Court, Western District of Texas

2000-present    Annual Guest Lecturer, Texas Civil Litigation: Pretrial and Trial Strategy Course, University of Texas School of Law

1999    Magistrate Selection Committee, US District Court, Western District of Texas

1996-1999	Supreme Court Advisory Committee on Court-Annexed Mediation
1996	Lecturer: "Alternative Methods of Dispute Resolution", St. Mary's Law School -- Anáhuac University Law School, Mexico City, Mexico
1992-1996	State Bar of Texas Pattern Jury Charge Committee, Volume 3 (Malpractice, Premises & Products)
1987-1996	Board of Directors, Legal Aid Society of Central Texas (President 1991)
1993-1995	State Bar of Texas Rules of Evidence Committee
1994-1995	Lecturer: "Alternative Methods of Dispute Resolution: Conciliation, Mediation and Arbitration," St. Mary's Law School -- University of Monterrey Law School Joint Venture, Monterrey, Mexico
1993	Lecturer: "Negotiations", St. Mary's Law School -- University of Monterrey Law School Joint Venture, Monterrey, Mexico
1987-1993	Instructor, "Winning at Trial", University of Texas School of Law
1991-1995	Guest lecturer on Professional Responsibility, University of Texas School of Law
1992	Member, Governor's Environmental Agency Transition Committee
1991-1992	President, Texas Consumer Association Member, Air Control Board Task Force on Compliance History

#### **PROFESSIONAL ASSOCIATIONS**

**National:** American Arbitration Association; American Bar Association; Federal Bar Association

**State:** State Bar of Texas; Texas Bar Foundation

**Regional:** Capital Area Trial Lawyers Association (President 1990-1991); Austin Bar Association;  
Austin Association of Attorney Mediators (President 2004)

#### **PUBLICATIONS**

Ongoing	Author, "Disputing", blog about current Texas and Fifth Circuit opinions pertaining to arbitration, <a href="http://www.karlbayer.com/blog">www.karlbayer.com/blog</a>
2008	Author, "Discovery Issues in Arbitration Proceedings", <u>21st Annual Advanced Evidence and Discovery Conference</u> , The State Bar of Texas
2007	Author, "Arbitration", <u>Bench Bar "007"</u> , Austin Bar Association
2006	Author, "Arbitration". <u>Page Keeton Civil Litigation Conference</u> , University of Texas School of Law
2005	Author, "Standards of Review as Applied to Arbitral Decisions", <u>Business Disputes and Litigation in the Digital Age</u> , The State Bar of Texas
2001	Author, "Domain Names: Understanding What's New, How to Protect Your Client's Presence", <u>High-Tech Megacourse: the New High Tech Industry</u> , The State Bar of Texas
	Author, "Liability of Pharmacists," University of Houston Law Foundation Program on Medical Malpractice, Medical Device and Pharmaceutical Litigation
	Author, "Getting and Protecting Electronic Information" South Texas College of Law Advanced Civil Trial Law Conference

- 2000           TTLA Advanced Personal Injury Course: "Pre-Settlement Liens and Preserving Entitlement"  
Author, "State law Causes of Action in High-Tech Litigation" State Bar of Texas Advanced High Tech Litigation Program
- 1998           Author, "Pharmacists' Liability: Analysis of the Development of a Duty to Warn", Medical Malpractice, Medical Device & Pharmaceutical Litigation Seminar, University of Houston Law Center
- 1997           Author, "ADR in Complex Medical Malpractice/Pharmaceutical/Medical Device Liability Litigation", Advanced Course Medical Malpractice, Pharmaceutical and Medical Device Litigation, State Bar of Texas, Santa Fe
- Author, "Ten Suggestions For Managed Care Law Suits," Dynamic Advocacy Seminar, Texas Trial Lawyers Association, Whitefish, Montana
- 1996           Author, "Opinion Evidence After *Daubert* and *Robinson*", Medicine for Lawyers Conference, The University of Texas School of Law
- 1995           Author, "ADR in the Medical Malpractice Context", Advanced Medical Malpractice Course, State Bar of Texas, Santa Fe  
Author, "New Relevancy and Admissibility Problems", University of Houston Law Center  
Author, "Case Law and Legislative Update on Punitive Damages", The University of Texas School of Law Products Liability and Personal Injury Conference
- 1994           Author, "ADR in Complex Medical/Pharmaceutical Liability Litigation", Advanced Course Medical Malpractice, Pharmaceutical and Medical Device Litigation, State Bar of Texas  
Author, "Car Wrecks and Drunk Drivers on the Information Superhighway", Dynamic Advocacy Seminar, Texas Trial Lawyers Association  
Author, "Common Relevancy Problems - Admissibility of Prior Occurrence Evidence after Moriel", Advanced Evidence and Discovery Institute, University of Houston Law Foundation  
Author, "Assessing and Evaluating the Malpractice Case: Plaintiff's View", Medical Malpractice Seminar, National Business Institute
- Author, "Environmental Cases: Sick Building Syndrome", Premises Liability Seminar, Texas Trial Lawyers Association  
Author, "Other Occurrence Evidence, Gross Negligence and Exemplary Damages, Post Moriel", The University of Texas School of Law Products Liability and Personal Injury Conference
- 1993           Author, "Domestic Torts", The Rutter Group-Texas Family Law Treatise  
Author, "Damages Update", UT Product Liability Conference, University of Texas School of Law  
Author, "Habit and Character Evidence", Advanced Evidence and Discovery Course, State Bar of Texas  
Author, "Torts", Advanced Family Law Drafting Course, State Bar of Texas  
Author, "ADR Update", Advanced Civil Trial Course, State Bar of Texas  
Author, "Duty or Damage?, Emotional Distress and Mental Anguish Following *Boyles v. Kerr* and *Twymann v. Twymann*", Butterworth's Texas Personal Injury Law Reporter

- Author, "Toxic Torts - Plaintiff's Perspective", South Texas School of Law Environmental Symposium
- 1992      Author, "Update on Architect and Engineer Liability", The University of Texas School of Law Construction Law Conference
- Author, "Professionalism", Advanced Personal Injury Law, State Bar of Texas
- Author, "Environmental Insurance Litigation", The University of Texas School of Law Product Liability and Personal Injury Conference
- Author, "Insurance Coverage in Toxic Torts", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1991      Author, "Attorney Work-Product and Attorney-Client Privilege", Discovery in the New Age, Texas Trial Lawyers Association
- Author, "Current Developments in Deceptive Trade Practices", Advanced Personal Injury Law Conference, State Bar of Texas
- 1990      Author, "Medical Negligence", Advanced Practice Pointers and Trial Techniques, Texas Trial Lawyers Association
- 1989      Author, "Intentional and Negligent Infliction of Emotional Distress", Domestic Torts, South Texas College of Law
- Author, "Computers as a Tool of Presenting Information Persuasively", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1988      Author, "Repeal of the Interspousal Immunity: Torts Come to Family Law", Marriage Dissolution Institute, State Bar of Texas
- Author, "Deceptive Trade Practices Act: A Primer", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1987      Author, "Strategic Consideration in Selecting a Products Theory", The University of Texas School of Law Product Liability and Personal Injury Conference
- Author, "Toxic Tort Developments", American Conference on Chemical Labeling
- Author, "Trying Marital and Family Torts after Price", Family Law Seminar The University of Texas School of Law
- 1986      Author, "Voir Dire in Product Liability Cases", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1985      Executive Producer of 45 minute educational documentary sponsored by the Texas Bar Foundation entitled "The Earth, the Air, the Water, and ... the Law"
- "Governmental Regulation of Recombinant DNA Research and Manufacturing Processes" Comprehensive Biotechnology, Vol. 3, Chapter 63 (1985).
- 1983      Co-author of "Federal Regulation of Emerging Genetic Technologies", 36 Vanderbilt Law Review, 461 (1983)
- 1973      Author, "The Length and Organization of the Parallel Fibers of the Turtle Cerebellum", Masters Thesis, Massachusetts Institute of Technology. (1973)